

HOUSE BILL NO. 342

INTRODUCED BY WANZENRIED

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE WAIVER OF THE RIGHT TO PROTEST FOR A SPECIAL IMPROVEMENT DISTRICT AND ELIMINATING THE ABILITY OF THE GOVERNING BODY TO OVERRULE A PROTEST FOR A SANITARY SEWER DISTRICT; AND AMENDING SECTIONS 7-12-4110 AND SECTION 7-12-4113, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~Section 1. Section 7-12-4110, MCA, is amended to read:~~

~~"7-12-4110. Protest against proposed work or district. (1) At any time within 15 days after the date of the first publication of the notice of the passage of the resolution of intention, any owner of property liable to be assessed for the work may make written protest against the proposed work or against the extent or creation of the district to be assessed, or both.~~

~~(2) A protest must be in writing, identify the property in the district owned by the protestor, and be signed by all the owners of the property. The protest must be delivered to the clerk of the city or town council or commission not later than 5 p.m. of the last day within the 15-day period. The clerk shall endorse on the protest document the date and hour of its receipt by the clerk.~~

~~(3) The right of protest under this section may not be waived.~~

~~(3)(4) (a) For purposes of this section, "owner" means, as of the date a protest is filed, the record owner of fee simple title to the property.~~

~~(b) The term does not include a tenant of or other holder of a leasehold interest in the property."~~

Section 1. Section 7-12-4113, MCA, is amended to read:

"7-12-4113. Sufficient protest to bar proceedings -- exceptions. (1) Except as provided in subsections (2) and (3) subsection (2), no further proceedings shall may not be taken for a period of 6 months from the date when ~~said the~~ protest ~~shall have been~~ is received by ~~said the~~ clerk of the city or town council or commission when:

(a) the council or commission finds that ~~such the~~ protest is made by the owners of property in the district

1 to be assessed for more than 50% of the cost of the proposed work, in accordance with the method or methods
2 of assessment described in the resolution of intention; or

3 (b) the cost ~~thereof~~ of the proposed work is to be assessed upon the property within an extended district
4 and the council or commission finds that ~~such the~~ protest is made by the owners of more than 50% of the area
5 of the property to be assessed for ~~said the~~ improvements.

6 (2) The council or commission ~~shall have the right to~~ may overrule any and all objections and pave the
7 proposed block with gravel and oil surface when the improvement proposed is the paving, with necessary
8 incidentals, of not more than one cross block to connect with streets or avenues already paved for a continuous
9 distance of three blocks or more running at a right angle, ~~(or substantially so),~~ with the single cross block ~~so~~
10 proposed to be paved.

11 ~~(3) In case the improvement is the construction of a sanitary sewer, such protest may be overruled by~~
12 ~~an affirmative vote of a majority of the members of the council or commission unless such protest is made by~~
13 ~~the owners of property in the district to be assessed for more than 75% of the cost of the district, in accordance~~
14 ~~with the methods of assessment described in the resolution of intention, in which event the protest must be~~
15 ~~sustained as to the construction of such sanitary sewer."~~

16
17 NEW SECTION. Section 2. Saving clause. [This act] does not affect rights and duties that matured,
18 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

19 - END -